

### **DISCUSSION**

Upon entry of the present amendment, Claims 1-29 remain in the application, of which, claims 1, 5, 13, 20, 24 and 25 are independent.

The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicant requests reconsideration and withdrawal of the rejection, for reasons which are outlined hereinbelow.

### **Drawing issues**

Applicant encloses herewith substitute drawing sheets for Figures 4, 5, 6 and 18-19. Figure 4 has been modified to show the acceleration sensor 15. Figure 19 has been modified to change the reference number for the closed local circle region to be 6-0 so that it will not conflict with the use of reference numeral 6 in Figure 7.

No new matter is added by these changes, since the subject matter thereof was expressly or inherently disclosed in the application as filed.

The Examiner has objected to the absence of a lead line for the reference character 'a' in Figure 2. Applicant traverses this ground of objection, and points out that the reference character 'a' simply refers to the arrow showing the direction of expansion. The Examiner has already acknowledged this meaning of the reference character 'a', by his comment in item 3(b) of the Office Action.

In item 4 of the Office Action, the Examiner has objected to the drawings for failure to show the bag with a protrusion section and partition. Applicant traverses this ground of objection. There is no requirement in the patent law that all features of a claimed invention be shown together in a single drawing.

### Specification issues

In item 5 of the Office Action, the Examiner has objected to the abstract, taking the position that there is no disclosure that the bag can include the protrusion section and a partition at the same time. Applicant traverses this ground of objection, and respectfully points out that the claims and the abstract form part of the original disclosure.

The claims and the abstract, as filed, are part of the specification, and may provide, or contribute to, compliance with §112. *Hyatt v. Boone*, 146 F.3d 1348, 1352, 47 USPQ2d 1128, 1130 (Fed. Cir. 1998). *Northern Telecom v. Datapoint*, 908 F.2d 931, 938, 15 USPQ2d 1321, 1326 (Fed. Cir. 1990) (the original claims are part of the patent specification); *In re Benno*, 768 F.2d 1340, 1346, 226 USPQ 683, 686-87 (Fed. Cir. 1985).

Applicant has made several changes to the specification to clarify the language and to further comport the application to U.S. practice. Some of these changes were made in response to suggestions made by the Examiner.

Applicant therefore respectfully requests reconsideration and withdrawal of the Examiner's objections to the specification and abstract.

### Section 112 issues

In item 9 of the above-identified Office Action, the Examiner rejected claims 6-12, 14-15 and 25-29 under 35 USC 112, second paragraph, as indefinite.

The Examiner took the position that the specification did not disclose an embodiment in which features of the embodiments of Figures 4-11 were combined with features of embodiments of Figures 12-21. Applicant disagrees with, and traverses this ground of rejection. Applicant respectfully submits that it is highly predictable that the applicant would wish to combine the novel features of the invention. Applicant further reiterates that the claims and abstract form part of the original disclosure, and refers again to the above-referenced cases on this point.

In item 9(d) of the Office Action, the Examiner pointed out that there was no antecedent basis for the terms "said first and second side panels" in Claims 8 and 15.

Applicant has amended the claims to more particularly point out and distinctly claim

the invention. Applicant has added new language to claims 7 and 15 to provide antecedent basis for the objected-to language therein.

Applicant respectfully suggests that, as currently amended, all of the pending claims are in full compliance with the requirements of 35 U.S.C. section 112.

#### **Section 102 issues**

Still further in the Office Action of July 8, 2003, the Examiner rejected claims 13-19 and 25-29 under 35 USC 102(b) as anticipated by Japanese Patent 10-175497.

#### **The Standard for Anticipation**

In the case of *Motorola, Inc. v. Interdigital Technology Corp.*, 121 F. 3d 1461 (CAFC 1997), the Court of Appeals for the Federal Circuit stated:

“For a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in the prior art (citation omitted). The (prior art) reference must describe the applicant’s claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it (citations omitted). Although this disclosure requirement presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read, into the prior art reference, teachings that are not there.”

The above-quoted passage is consistent with many previous cases of the Federal Circuit and with MPEP 2131, which reiterates the rule that **in order to anticipate a claim, a reference must teach each and every element of the claim.**

Applicant has further amended claim 13 to more particularly point out and distinctly claim that during deployment thereof, the air bag expands substantially in parallel to a linear expansion direction.

According to the amended claims 13 and 25, the air bag expands substantially in parallel to the expansion direction L. Therefore, it is possible to realize high-speed expansion of the air bag by utilizing gas flow effectively.

Also, comparing the claims 1 and 20 with the reference(s), in applicant's air bag design, the protrusion section is provided for a tip portion of the air bag, and is narrower than

the main section of the air bag. In addition, openings are provided in the opposed ends of the protrusion section. Therefore, according to the amended invention, the gas flow hits against the back surface of the protrusion section (4) and is forcedly changed from the expansion direction (L) into a direction orthogonal to the expansion direction (L). Thus, the gas flow in the expansion direction (L) is rapidly decelerated at the initial stage of the expansion but then an amount of gas spouted from the openings (5, 5) at both the ends of the protrusion section (4) is restricted largely. Therefore, because the spout of the gas is restricted, the decrease of the expansion speed of the bag is restricted. This is not described in the reference(s).

Applicant respectfully submits that Japanese Patent 10-175497 fails to disclose each and every element of applicant's claimed invention. Japanese Patent 10-175497 fails to teach, disclose or suggest an air bag which expands in a substantially linear direction. Therefore, applicant requests reconsideration and withdrawal of the rejection based on Section 102.

Applicant respectfully submits that as amended, claims 13-19 and 25-29 not only overcome the Examiner's anticipation rejection, but are non-obvious in light of the prior art, and therefore meet the standard of patentability. Therefore, applicant requests reconsideration and withdrawal of this ground of rejection.

#### **Section 103 issues**

In item 14 of the above-identified Office Action, the Examiner rejected claims 1-3, 6-12, and 20-22 under 35 U.S.C. 103 as unpatentable over Japanese Patent 10-175497 in view of Japanese Patent 49-116743.

Further in item 15 of the Office Action, the Examiner rejected claims 4 and 23 under 35 U.S.C. 103 as unpatentable over Japanese Patent 10-175497 in view of Japanese Patent 49-116743, and further in view of Japanese patent 9-315245.

Applicant has made amendments to the claims, which are believed to overcome the Examiner's rejection.

Claim 1 has been amended to require that the protrusion section is attached to and extends outwardly away from a tip portion of the main section.

Claim 2 has been amended to specify that the protrusion section extends beyond the main section and comprises a semi-cylindrical pipe shape with openings formed therein at opposing ends thereof.

Claim 3 has been amended to require that the protrusion section is narrower than the tip portion of the main section, and has at least one opening in a portion thereof connected with and spaced away from the main section.

Other significant changes to the claim language can be found elsewhere in the present amendment.

Therefore, applicant requests reconsideration and withdrawal of the rejection of applicant's claims under 35 USC 103.

#### **Allowable Subject Matter**

In item 16 of the above-identified Office Action, the Examiner indicated that claims 5 and 24 would be allowable if rewritten to overcome the 35 USC 112 rejection and to be independent. Applicant has made claims 5 and 24 independent by the present amendment, and as noted above, it is believed that the rejections under 35 USC 112 have been overcome.

#### **Conclusion**

Applicant respectfully suggests that none of the references of record, considered

either singly or in any combination, teach applicant's invention, as presently claimed, and that further, skill generally available in the art would not lead to a person of ordinary skill to create applicant's claimed invention, using the references of record.

Applicant respectfully suggests that as currently amended, all of the pending claims are believed to be allowable.

No new matter has been added by the present amendment, since all of the pertinent subject matter was expressly or inherently disclosed in the original application.

For all of the above mentioned reasons, applicant requests reconsideration and withdrawal of the rejection of record, and allowance of all the pending claims.

The Commissioner is hereby authorized to charge \$132.00 for two independent claims in excess of three to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. The Commissioner is further authorized to charge any deficiency, and to credit any over-payment to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. A duplicate copy of this sheet is enclosed.

Carrier, Blackman & Associates  
24101 Novi Road, Suite 100  
Novi, Michigan 48375  
October 8, 2003

Respectfully submitted,



William D. Blackman  
Attorney for Applicant  
Registration Number 32,397  
(248) 344-4422

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being transmitted via facsimile to the USPTO Examining Group 3616 at (703) ~~308-2571~~ on October 8, 2003.

746-3508

  
Kathryn MacKenzie